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C O N F I D E N T I A L OSLO 000396

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DEPARTMENT FOR EUR/NB, OES/OA, L, AND EB/ESC/

E.O. 12958: DECL: 03/30/2016

TAGS: [PREL](#) [EPET](#) [ENRG](#) [UK](#) [NO](#)

SUBJECT: NORWEGIAN CLAIMS IN HIGH NORTH EXPANDING?

REF: A. 05 OSLO 1708

[1](#)B. OSLO 363

[1](#)C. EVANS-WEBSTER ET AL. E-MAIL 3/30

Classified By: Pol/Econ Chief Mike Hammer for reasons 1.4 b and d

[1](#)1. (C) Summary and action request. Norway may soon lay claim to a large swath of Arctic resources around the Svalbard archipelago. Already the source of international disputes over fishing rights, Svalbard's unique (and in some cases unclear) status internationally has the potential to create further political problems as countries in the region vie for the region's energy resources. While in recent years the U.S. has maintained no official position on the Norwegian sovereignty beyond what is contained in the 1920 Treaty of Spitzbergen, other countries have defined positions which are at odds with Norwegian views. As the region's resources feed into the future energy picture, we will need to develop an official position on the region if only because we are bound to be asked for our views, both officially and by the press. There are also potentially significant commercial implications. Action Request: Post would appreciate Department guidance on the U.S. position on the 200 mile Svalbard Fisheries Protection Zone and the U.S. position regarding an extension of the Norwegian Exclusive Economic Zone into Svalbard based on United Nations Convention on the Law of the Sea (UNCLOS) continental shelf continuation provisions. End Summary.

LINGERING DISPUTE OVER FISHERIES AND NOW ENERGY RESOURCES
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[1](#)2. (SBU) Svalbard sits in an area where Norwegian, Russian, EU, and U.S. interests in energy security intersect. Norway was granted sovereignty over the Svalbard archipelago and its territorial waters in the 1920 Spitzbergen Treaty. In 1977, Norway extended its reach by unilaterally imposing a 200 mile Fisheries Protection Zone (FPZ) around the island chain (reftel A). Norway's right to establish and enforce such an FPZ is contested by Russia, Spain, and Iceland. If estimates of the region's energy wealth are accurate, the argument over who has access to the region's resources will no longer be about fish but fossil fuel. In recent meetings, U.S. oil executives have shared with us their concerns (reftel B) that Svalbard could be the source of future political problems as Arctic nations' interests collide in the region.

[1](#)3. (SBU) The Norwegian Petroleum Directorate (NPD) recently

conducted an expedition to Svalbard to determine the extent of the continental shelf. Prior NPD research indicated that significant hydrocarbon reserves may lie in and around the Svalbard archipelago. Norwegians are preparing to send documentation of their claim to the UN Commission on the Limits of the Continental Shelf in July. If Norway can prove that its continental shelf continues north through the Svalbard archipelago, it may extend its Exclusive Economic Zone under United Nations Convention on the Law of the Sea (UNCLOS) to a region stretching to the 85th parallel. In 2001, Russia attempted (unsuccessfully) to extend its Arctic claims under UNCLOS arguing that there was a northward continuation of the Russian continental shelf; now Norway seems poised to do the same.

BRITS DISAGREE WITH NORWAY'S POSITION: AT STAKE, BEAUCOUP BUCKS

14. (C) The Ambassador recently attended a senior level meeting in Svalbard where the British Ambassador and Norwegian State Secretary Skogrand entered into a sharp exchange of views on the subject of Norwegian claims in the region. The local UK Embassy informed us that the Norwegians and Brits held High North bi-lateral talks on 13 March in London, and following these discussions it appears the Brits felt it necessary to formally restate their position on Svalbard by issuing a diplomatic note laying out their position. Briefly, the British believe that Svalbard generates its own Exclusive Economic Zone separate and exclusive from that generated by the Norwegian mainland. Since any extension of a Svalbard EEZ would sit on its own continental shelf, any EEZ there is subject to the 1920 Spitzbergen Treaty's equal access, equal treatment and tax limitation provisions. The British dipnote asserts that Article 8 of the Spitzbergen treaty, which caps levies on mineral exports at one percent, would apply to petroleum exports (as opposed to a Norwegian claim that would apply their petroleum tax regime of 78 percent). At our request, the British Embassy in Oslo provided us a copy of their diplomatic note and talking points to Norway (paragraphs 8-10 below).

U.S. POSITION UNCLEAR

15. (C) The U.S. is a signatory to the 1920 Spitzbergen Treaty. Ref C brings to light that the question of Svalbard sovereignty was reviewed at senior levels of the USG in 1976. However, we are not aware if any action was taken 30 years ago, or in more recent years, to further define an official USG position regarding the Svalbard FPZ or Norwegian claims based on continental shelf extensions. As our energy interests in the area grow, and as access rights to the region's resources become more contentious, we believe we may need to clarify the U.S. position on Svalbard, hence our action request for guidance.

16. (C) Comment: We have been sensing over the past year that Norway has been more visibly asserting its sovereignty over Svalbard; including, hosting high-level foreign delegations in the archipelago, increasing Norwegian Coast Guard patrols and boardings, and conducting research on the extent of the continental shelf. Since the Stoltenberg government took over in October 2005, it has made the high north its top priority and been quite explicit that there are significant Norwegian interests in the Arctic that must be protected. While Norway has not/not stated that it will turn its FPZ into an EEZ, the Norwegians are clearly interested in doing so and may be looking for support for their claims. The Brits negative response to Norway (see UK dip note in paras 8-10 below) is drawing a line in the sand. The USG should also develop a position on the issue as we are more frequently being asked for our views, including in the press, on issues relating to the status of the archipelago.

17. (C) Comment cont. While the U.S. has no territorial

claims on the Svalbard archipelago, the commercial implications for U.S. firms could be huge depending on the outcome of this issue. As the British diplomatic note states, the Spitzbergen treaty under Article 8 specifies the tax regime which applies to the exploitation of minerals in Svalbard, i.e., a one percent cap on levies on mineral exports. However, if Norway is successful in asserting its continental shelf claim, its domestic laws would apply, meaning that oil companies involved in extraction in this area would be taxed at the current rate of 78 percent. End Comment.

18. (SBU) Text of the Diplomatic Note presented by the UK to the Norwegian MFA on March 23 (or thereabouts)

Begin Text.

Her Britannic Majesty's Embassy presents their compliments to the Royal Norwegian Ministry of Foreign Affairs and has the honour to refer to the Treaty concerning the Archipelago of Spitzbergen (Svalbard), done at Paris on 9 February 1920.

In the light of recent activity by the Norwegian authorities in the area north of the northern coastline of Norway, the United Kingdom considers that it is timely to reiterate its position concerning the application of the Treaty of Paris to the maritime zones generated around Svalbard.

The United Kingdom considers that the Svalbard archipelago, including Bear Island, generates its own maritime zones, separate from those generated by other Norwegian territory, in accordance with the United Nations Convention on the Law of the Sea. It follows therefore that there is a continental shelf and an exclusive economic zone which pertain to Svalbard.

Second, the United Kingdom considers that maritime zones generated by Svalbard are subject to the provisions of the Treaty of Paris, in particular Article 3, which requires that Svalbard should be open on a footing of equality to all parties to the Treaty of Paris, and Article 8, which inter alia specifies the tax regime which applies to the exploitation of minerals in Svalbard.

The United Kingdom expects that the Norwegian authorities will fully comply with the obligations of Norway under the Treaty of Paris, as set out above.

The British Embassy avails itself of this opportunity to renew to the Royal Norwegian Ministry of Foreign Affairs the assurances of its highest consideration.

End text

19. (SBU) UK talking points accompanying their Diplomatic Note.

Begin Text.

The UK welcomes the new focus of the Norwegian Government on the High North / Barents region. We had positive wide-ranging bilateral talks in London on 13 March that identified many areas of common interest.

These include energy security, sustainable resource management, environmental protection and climate change. Our interests in developing a relationship with Russia based on the rule of law and respect for international standards are also similar.

However, you will know that one area where we, and many other countries, disagree with Norway is over its interpretation of the 1920 Svalbard Treaty. Over the past three decades we have, as a State Party to the Treaty, reserved our position on the question of Norway's assertion that Svalbard's continental shelf is an extension of the Norwegian shelf, and on the Fisheries Protection Zone unilaterally declared by Norway around Svalbard in 1977.

An increasingly active policy by Norway in enforcing the Fisheries Protection Zone and in issuing hydrocarbon licences in the Barents Sea, together with challenges to Norway's activities by countries such as Iceland, Russia and Spain, has prompted the UK to review its own interests in the Svalbard archipelago.

The Diplomatic Note sets down formally the UK's view that the Svalbard archipelago, including Bear Island, generates its own maritime zones, separate from those generated by other Norwegian territory, in accordance with the United Nations Convention on the Law of the Sea. It follows therefore that there is a continental shelf and an exclusive economic zone which pertain to Svalbard. We believe that, if this issue were ever to be referred to the International Court of Justice, our position would find strong support in international law.

The United Kingdom considers that maritime zones generated by Svalbard are subject to the provisions of the 1920 Treaty, in particular Article 3, which requires that Svalbard should be open on a footing of equality to all parties to the Treaty of Paris, and Article 8, which inter alia specifies the tax regime which applies to the exploitation of minerals in Svalbard.

We are aware of the need to ensure that resources are managed in a sustainable manner. The UK Marine Fisheries Agency is working closely with its Norwegian counterpart to counter the problem of illegal catching and landings and we expect UK fishing boats to comply with the relevant Norwegian legislation in so far as it is in accordance with the Svalbard Treaty.

The UK would welcome a more detailed dialogue with Norway and other key State Parties to the Treaty in order to move the issues forward and to focus on building a sustainable, long term international approach to the Svalbard archipelago that ensures the fragile ecosystem of the region is fully protected, while ensuring that the rights of State Parties are respected.
End text.

110. (SBU) UK Embassy press points regarding their Diplomatic Note.

Begin text.

Svalbard Diplomatic Note: statement to be given to media on if-asked basis:

There is an ongoing dialogue on the High North (Barents / Arctic region) between the UK and Norway - this was initiated by Norway. As part of that dialogue the UK reiterated in a Diplomatic Note its long-standing interpretation of the 1920 Svalbard Treaty. This is: that the Svalbard archipelago, including Bear Island, generates its own maritime zones, separate from those generated by other Norwegian territory, in accordance with the United Nations Convention on the Law of the Sea. Second, the United Kingdom considers that maritime zones generated by Svalbard are subject to the provisions of the Svalbard Treaty, in particular Article 3, which requires that Svalbard should be open on a footing of equality to all parties to the Treaty, and Article 8, which inter alia specifies the tax regime which applies to the exploitation of minerals in Svalbard. We have since 1977 reserved our position on the Fisheries Protection Zone unilaterally declared by Norway in 1977. We are aware of the need to ensure that resources are managed in a sustainable manner. The UK Marine Fisheries Agency is working closely with its Norwegian counterpart to counter the problem of illegal catching and landings and we expect UK fishing boats to comply with the relevant Norwegian legislation in the Fisheries Protection Zone insofar as it is in accordance with the Svalbard Treaty.

There was no protest, as some media reports have suggested

today.

We do not wish to get drawn into commenting on what each other say. We look forward to continuing dialogue with Norway.

End text.

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<http://www.state.sgov.gov/p/eur/oslo/index.cfm>

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